

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA)	CASE NO. 1:19 CR 109
)	
Plaintiff,)	JUDGE BENITA Y. PEARSON
)	
vs.)	MOTION FOR A HEARING TO
)	DETERMINE THE MENTAL
RUSSELL DELANO MILEY-CRUZ)	COMPETENCY OF DEFENDANT
)	
Defendant.		

Now comes Defendant, Russell Delano Miley-Cruz, by and through undersigned counsel, and hereby moves this Honorable Court, pursuant to 18 U.S.C.A. § 4241, for a hearing to determine the mental competency of Defendant. The grounds for this Motion are more fully set forth in the attached Memorandum of Law.

Respectfully submitted,
BETRAS, KOPP & HARSHMAN, LLC

/s/ David J. Betras
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MEMORANDUM OF LAW

Pursuant to 18 U.S.C.A. § 4241(a), the court shall grant a defendant's motion for a hearing to determine the mental competency of the defendant "there is reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense." 18 U.S.C.A. 4241(a). Additionally, pursuant to 18 U.S.C.A. § 4241(b), prior to said hearing the court may order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court. 18 U.S.C.A. § 4241(b).

In this case, there is reasonable cause to believe that Defendant may be presently insane or otherwise so mentally incompetent as to be unable to understand the proceedings or to properly assist in his defense. First, Defendant is currently diagnosed with at least one mental illness – Bipolar II Disorder. Although Defendant is currently taking an antipsychotic medication, he is not receiving all of the medications he has been prescribed. Second, he is currently on social security disability for a mental disorder. Additionally, while he was incarcerated at the Pennsylvania jail, Defendant was on suicide watch. Furthermore, Defendant is requesting a hearing on the issue of his competence or lack thereof. Finally, Defendant has not been able to discuss intelligently with counsel the facts concerning this case. Counsel has doubts as to Defendant's comprehension levels and ability to understand the proceedings. Counsel also has doubts as to Defendant's ability to assist counsel in his defense.

For these reasons, Defendant requests this Court hold a hearing to determine Defendant's mental competence. Additionally, Defendant requests that the Court order that an examination be conducted and a report be filed with the Court prior to said hearing.

Respectfully submitted,
BETRAS, KOPP & HARSHMAN, LLC

/s/ David J. Betras

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was filed and served electronically this 2nd day of April 2019 upon attorneys who have completed ECF registration as required by the Court.

/s/ David J. Betras

DAVID J. BETRAS (0030575)